

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA**

The State of Missouri, *et al.*,

*Plaintiffs,*

v.

President Joseph R. Biden, Jr., in his official capacity as President of the United States of America, *et. al.*,

*Defendants.*

Civil Action No. 22-cv-1213

**NOTICE REGARDING RULE 45(f) TRANSFER OF MOTIONS TO QUASH AND  
REQUEST FOR EXPEDITED RULING ON MOTIONS TO QUASH**

On November 1, 2022, Plaintiffs served a third-party subpoena on former White House Press Secretary Jen Psaki, ordering her to appear for a deposition in the Eastern District of Virginia on December 8, 2022. On November 3, 2022, Ms. Psaki, through private counsel, and the Government moved the United States District Court for the Eastern District of Virginia to quash the Rule 45 subpoena. *See In re Psaki*, No. 1:22-mc-28 (E.D.V.A.). A hearing was held on the motions on November 18, 2022, and the court transferred the motions to quash to this Court, pursuant to Federal Rule of Civil Procedure Rule 45(f). *See id.*, November 18, 2022, Minute Entry transferring motions to the Western District of Louisiana (Exhibit F).

Attached to this notice are the fully briefed motions to quash, which are ripe for this Court's decision. *See Exhibit A* (J. Psaki Motion to Quash, Brief in Support, and supporting exhibits); *Exhibit B* (United States' Motion to Quash, Brief in Support, and supporting exhibits); *Exhibit C* (Plaintiffs' Combined Opposition to Motions to Quash); *Exhibit D* (United States' Reply ISO

Motion to Quash); Exhibit E (J. Psaki Reply In Support of Motion to Quash). A revised proposed order is also attached for this Court's entry.

The legal standards governing motions to quash a deposition of a high ranking official, including pursuant to the Federal Rules of Civil Procedure 26(c)(1) and 45(d)(3), are materially similar in the Fourth and Fifth Circuits, and the Court may therefore address the fully briefed motions as written. *See In re Ken Paxton*, --- F.4th ---, 2022 WL 16921697 (5th Cir.) (applying the Fifth Circuit's legal standards).

In light of the impending deposition date, Defendants respectfully request an expedited decision on the motions to quash by Monday, November 21, 2022.

Additionally, Defendants respectfully request that, if this Court denies the motion to quash, it enter a stay of the deposition, to remain in effect until the Fifth Circuit's resolution of any appellate relief sought, or, until seven days after this Court's order if no appellate relief is sought by that date. *See Nken v. Holder*, 556 U.S. 418, 434 (2009) (setting forth the four-factor test for a stay pending appeal); *see also United States v. Transocean Deepwater Drilling, Inc.*, 537 F. App'x 358, 360 (5th Cir. 2013) (same). Subjecting a high-ranking official to a deposition, which cannot later be reversed at a later stage of the litigation, establishes irreparable harm. “If courts did not limit the[] depositions [of high-ranking officials], such officials would spend ‘an inordinate amount of time tending to pending litigation.’” *Lederman v. N.Y.C. Dep’t of Parks & Recreation*, 731 F.3d 199, 203 (2d Cir. 2013) (quoting *Bogan v. City of Boston*, 489 F.3d 417, 423 (1st Cir. 2007)).

Counsel for Defendants have conferred with counsel for Ms. Psaki, who stated that Ms. Psaki consents to the relief requested herein.

Additionally, Counsel for Defendants have conferred with counsel for Plaintiffs, who stated that Plaintiffs take no position on the timing of the Court's ruling but otherwise oppose the requested relief.

Dated: November 18, 2022

Respectfully submitted,

BRIAN M. BOYNTON

*Principal Deputy Assistant Attorney General*

JAMES J. GILLIGAN

*Special Litigation Counsel, Federal Programs Branch*

/s/ Adam D. Kirschner

ADAM D. KIRSCHNER (IL Bar No. 6286601)

*Senior Trial Counsel*

KYLA SNOW (OH Bar No. 96662)

INDRANEEL SUR (D.C. Bar No. 978017)

AMANDA K. CHUZI (D.C. Bar No. 1738545)

*Trial Attorneys*

U.S. Department of Justice

Civil Division, Federal Programs Branch

1100 L Street, NW

Washington D.C. 20005

Tel: (202) 598-3846

Adam.Kirschner@usdoj.gov

*Attorneys for Defendants*